

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**NICOLE WEISZ,**

**Plaintiff,**

**v.**

**CCT HOLDINGS, LLC  
AND MICHAEL EYMER,  
INDIVIDUALLY,**

**Defendants.**

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**Case No. 4:23-cv-541-ALM-AGD**

**DECLARATION OF DOUGLAS B. WELMAKER**

1. My name is Douglas B. Welmaker. I am over the age of 18 years, have personal knowledge of the matters set forth herein, and am competent to make this declaration. I make this declaration pursuant to the provisions of 28 U.S.C. § 1746. I submit this declaration in support of Plaintiff's Request for the Clerk's Entry of Default in this matter.

2. Defendant CCT Holdings, LLC ("CCT") was Plaintiff's employer. See ECF No. 1, Plaintiff's Original Complaint. CCT does not have a registered agent for service of process listed with the Texas Secretary of State's office, based on multiple attempts I made to locate same through searching the Texas Secretary of State's website. Defendant CCT Holdings, LLC does maintain a registered agent in Colorado, based upon their filings with the Colorado's Secretary of State's Office.

3. Attached hereto as Attachment 1 is a true and correct copy of CCT's filing information as per the Colorado Secretary of State's Office, which lists CCT's registered agent as Michael Eymer, and lists the **physical address for Mr. Eymer** at 3454 Alma Lane, Kittredge, Co., 80457. *Id.* I checked the Colorado Secretary of State's website today, December 22, 2023, and the information reflected on Attachment 1 is still the same.

4. On July 13, 2023, Plaintiff attempted service on CCT through its registered agent Mr. Eymer using a process server out of Austin, Texas operating under the name of Direct Results Legal Services. Service was attempted via certified mail at the address listed for Mr. Eymer with the Colorado Secretary of State's Office, but the certified mail was returned on August 12, 2023 with the notation "return to sender, refused, unable to forward." See Attachment 2, a true and correct copy of the Proof of Service Affidavit, by Tod Pendergrass.

5. In September 2023, I then then hired a Colorado process server, Quality Process Servers out of Longmont Colorado to serve CCT and Registered Agent Eymer **in person** at 3454 Alma Lane, Kittredge, Co., 80457, but the process server was unable to effectuate service, reporting that

she spoke to an individual at this address who claimed they did not know who Michael Eymmer or CCT was. See Attachment 3, a true and correct copy of Quality Process Server's return.

6. On September 27, 2023, Plaintiff then attempted to have Direct Results serve CCT via certified mail at CCT's principal office mailing address, which is listed with the Colorado Secretary of State at 250 W. Jewell, Denver Colorado, 80223. That certified mail came back with the notation "No such address" on November 8, 2023. See Attachment 4, a true and correct copy of Mr. Pendergrass's affidavit.

7. On November 16, 2023, Plaintiff then attempted to have CCT served by certified mail on Eymmer at the Registered Agent's mailing address, which is PO Box 998, Kittridge Colorado 80457, but the certified mail came back with the notation "refused" on November 30, 2023. See Attachment 5, and true and correct copy of Mr. Pendergrass's affidavit.

8. Under Colorado Rev. Civ. Stat. § 7-90-704 (2)(c)<sup>1</sup>, if a registered agent is not present where they have listed their address, then service is effectuated five days after mailing to the registered agent's listed address.

9. As such, at the earliest, Defendant CCT was served five days after July 13, 2023, which would have been July 18, 2023. At the latest, Defendant CCT was served five days after November 16, 2023, which would have been November 21, 2023. If service was effectuated November 21, 2023, then Defendant CCT's answer would have been due December 12, 2023. As it is now December 22, 2023, and Defendant CCT has not answered, Defendant CCT is in default.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 22, 2023, in Gregg County, Texas.

Dated: December 22, 2023

/s/ Douglas B. Welmaker  
Douglas B. Welmaker

<sup>1</sup> **7-90-704. Service on entities**

(1) The registered agent of an entity is an agent of the entity authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity. The registered agent of an entity is an agent of the entity to whom the secretary of state may deliver any form, notice, or other document with respect to the entity under this title, unless otherwise specified by an organic statute.

(2) If an entity that is required to maintain a registered agent pursuant to this part 7 has no registered agent, or if the registered agent is not located under its registered agent name at its registered agent address, or if the registered agent cannot with reasonable diligence be served, the entity may be served by registered mail or by certified mail, return receipt requested, addressed to the entity at its principal address. Service is perfected under this subsection (2) at the earliest of:

- (a) The date the entity receives the process, notice, or demand;
- (b) The date shown on the return receipt, if signed on behalf of the entity; or
- (c) **Five days after mailing.**

(Emphasis added)